

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

KINTEA MCKENZIE,

Defendant.

18 Cr. 834 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

The pretrial services officer has received and forwarded to the Court a video that appears to be of Kintea McKenzie, apparently taken shortly after his release from federal custody this week on the grounds that his presence in the Metropolitan Correctional Center pending sentencing exposed to him to an outsize risk of contracting COVID-19. The video appears to reflect Mr. McKenzie partying in very close proximity to numerous others. The Court's staff is furnishing a copy of the video to counsel by email.

The video is of concern to the Court for two reasons. First, the video may reflect one or more violation(s) of the defendant's terms of temporary release, with which the Court has admonished Mr. McKenzie he must scrupulously comply or otherwise face remand. Dkt. 443 at 6. Second, the conduct depicted on the video suggests a complete lack of concern by Mr. McKenzie for avoidance of contagion of himself and others. It appears inconsistent with the health and safety justification his counsel articulated in seeking, and on which the Court relied in granting, Mr. McKenzie's temporary pre-sentencing release from the MCC on conditions including home incarceration: that his high-risk medical condition required his separation from others to minimize the risk of his contracting COVID-19.

The Court directs that the Government and defense each submit a letter, due Friday, April 3, 2020, at 5 p.m. setting forth their views on this matter. Counsel's letters are to address, *inter alia*, the above concerns and to set out their views on the Court's appropriate response. The Court expects that the Government's letter will also set out the views of Pretrial Services. To assure that the letters reflect an orderly and complete exchange of views, the Court directs that Government and defense counsel confer by telephone, by no later than 11 a.m. on Friday, April 3, 2020, to share their views and anticipated recommendations.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: April 2, 2020
New York, New York